

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS

In re:

Chapter 13

Joelle Hernandez

Case No. 19-04681

Debtor(s).

Hearing on September 16, 2019 at 10:30 a.m.

NOTICE OF MOTION

PLEASE TAKE NOTICE that on September 16, 2019 at 10:30 a.m., or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Pamela S. Hollis or any judge sitting in his stead, in the courtroom usually occupied by her in Joliet City Hall, 150 West Jefferson Street, 2nd Floor, Joliet, IL 60432, and moved to present the attached motion.

/s/ Diana A. Carpintero

CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2019, a copy of the foregoing Motion and accompanying Notice of Motion was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

David M. Siegel
o/b/o Debtor(s) Joelle Hernandez
davidsiegelbk@gmail.com

Glenn B. Stearns
Trustee
stearns_g@lisle13.com

Patrick S. Layng
U.S. Trustee
USTPRegion11.ES.ECF@usdoj.gov

I further certify that on August 15, 2019, a copy of the foregoing Motion and accompanying Notice of Motion was mailed by first-class U.S. Mail, postage prepaid and properly addressed to the following:

Joelle Hernandez
170 John ST
New Lenox IL 60451

/s/ Diana A. Carpintero
Attorney for Movant

Marinosci Law Group
134 N LaSalle, Suite 1900
Chicago, IL 60602
312-940-8580; Fax: 401-234-5130
dcarpintero@mlg-defaultlaw.com

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MOTION FOR RELIEF FROM THE AUTOMATIC STAY (REAL PROPERTY)

PNC Bank, National Association (“Movant”) hereby moves this Court, pursuant to 11 U.S.C. § 362, for relief from the automatic stay with respect to certain real property of the Debtor(s) having an address of 170 John St., New Lenox, IL 60451 (the “Property”). The Required Statement is attached hereto as Exhibit 1, in accordance with Local Rule 4001-1. In further support of this Motion, Movant respectfully states:

1. A petition under Chapter 13 of the United States Bankruptcy Code was filed with respect to the Debtor(s) on February 22, 2019.
2. A Chapter 13 Plan has been confirmed on May 10, 2019.
3. The Debtor(s) has/have executed and delivered or is/are otherwise obligated with respect to that certain promissory note in the original principal amount of \$106,455.00 (the “Note”). A copy of the Note is attached hereto as Exhibit 2. Movant is an entity entitled to enforce the Note.
4. Pursuant to that certain Mortgage (the “Mortgage”), all obligations (collectively, the “Obligations”) of the Debtor(s) under and with respect to the Note and the Mortgage are secured by the Property. A copy of the Mortgage is attached hereto as Exhibit 3.
5. As of August 8, 2019, the outstanding amount of the Obligations is: \$120,559.74.
6. The Debtor’s plan calls for the Debtor(s) to make post-petition mortgage payments to the Movant.

7. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested herein, Movant has incurred \$850.00 in legal fees and \$181.00 in costs. Movant reserves all rights to seek an award or allowance of such fees and expenses in accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.

8. The following chart sets forth the number and amount of postpetition payments due pursuant to the terms of the Note that have been missed by the Debtor(s) as of August 8, 2019.

Number of Missed/Delinquent Payments	From	To	Monthly Payment Amount	Total Amounts Delinquent
<u>3</u>	<u>06/01/2019</u>	<u>08/01/2019</u>	<u>\$1,028.88</u>	<u>\$3,086.64</u>
Less postpetition partial payments:				(\$1.36)

Total: \$3,085.28

9. The estimated market value of the Property is \$126,000.00. The basis for such valuation is Schedule A of the Debtor(s)' Chapter 13 Petition.

10. Upon information and belief, the aggregate amount of encumbrances on the Property listed in the Schedules or otherwise known, including but not limited to the encumbrances granted to Movant, is \$126,000.00.

11. Cause exists for relief from the automatic stay for the following reasons:

(a) Movant's interest in the Property is not adequately protected.

(b) Post confirmation payments required by the confirmed plan have not been made to Movant.

(c) Pursuant to 11 U.S.C. § 362(d)(2)(A), Debtor(s) has/have no equity in the Property; and pursuant to § 362(d)(2)(B) the Property is not necessary for an effective reorganization.

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the stay and granting the following:

1. Relief from the stay allowing Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.
2. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.
3. That the 14-day stay described by Bankruptcy Rule 4001(a)(3) be waived.
4. Movant further requests that upon entry of an order granting relief from stay, it be exempted from further compliance with Fed. Rule Bankr. P. 3002.1 in the instant bankruptcy case.
5. For such other relief as the Court deems proper.

Respectfully submitted,

/s/ Diana A. Carpintero
Attorney for Movant

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Chicago, IL 60602
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